

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

FREMONT REORGANIZING CORP.,

Plaintiff,

v.

Case Number 10-11923  
Honorable David M. Lawson

RONNIE DUKE, RYAN ZUNDEL, BILL WELLS,  
WILLINEVAH RICHARDSON, ANTHONY  
PETERS, AMERICAN NATIONWIDE MORTGAGE  
CO., CBB, INC. d/b/a BRET LIN HOME MORTGAGE,  
FIRST ESCROW COMPANY, LLC, HARDCORE  
MOTOR SPORTS, LLC, HARDCORE RACING, INC.  
JS REALTY, LLC, LAWYERS ESCROW CO.,  
LIBERTY TITLE AND ESCROW SERVICES, LLC,  
MOTORCITY FINANCIAL SERVICES, NATIONS  
TITLE OF OHIO, NORTH AMERICAN HOME  
FUNDING, INC., OWNER REALTY.COM, PREMIER  
MORTGAGE FUNDING, INC., REAL ESTATE ONE,  
INC., ANDREW AUTY, TIMOTHY BAKER,  
MELISSA BASTIEN, HUSSEIN ABDUL-MAJID  
BAZZI a/k/a SAM BAZZI, SPECIALTY HOLDINGS,  
INC., ALI BAYDOUN, JAY BAYDOUN a/k/a JALAL  
BAYDOUN, CHEA BENNETT, MORGAN  
BEVENSEE, KEVIN BOS, LISA BOS, ROBERT  
BRIERLEY, BYRON DEES, FRANK GENDERNALIK,  
SUSAN GENDERNALIK, RAY HALL, HUGH  
BRADLEY JAMES, KIM KENT, DAVID LARA,  
HAROLD LARSEN, DANNY LEY, PATRICK LLOYD,  
JOSE MARTINEZ, JOHN MAYER, KATHY  
MCCUTCHEON a/k/a KATHY SIZEMORE, APRIL  
MILLER, COLLETTE MILLITELLO, JOSEPH  
MILLITELLO, PAUL MORRIS, ADELBERT MOSS,  
BRYAN MURPHY, DANIELLE NAPPER, SUZANNE  
NICHOLAS, DANIEL PANKO, KATHLEEN  
POUNDS, LARRY RIDEOUT, RICARDO RODRIGUEZ,  
FRANK RAY SCHAFER, JR, JEFF SCHUCK, RACHEL  
SEMAN, MICHAEL SHILAKES, BRYAN STURGEON,  
JAMIE SWEENEY, RONALD TALASKI, JR.,  
MITCHELL TOMCSIK, NICOLE TURCHECK, LINDA  
WAHLER, DONNA WALBROOK, PAUL WHITESIDE,  
JEREMY YALKIN, KASSEM ZREIK, FIDELITY  
NATIONAL TITLE INSURANCE CO.,

**ORDER DENYING PLAINTIFF'S  
MOTION FOR ENTRY OF  
JUDGMENT AGAINST  
DEFENDANT JP MORGAN  
CHASE BANK**

QUOTEMEAREATE.COM, INC., and APEX  
FINANCIAL GROUP, INCORPORATED, d/b/a  
AAPEX MORTGAGE CORP.,

Defendants.

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**ORDER DENYING PLAINTIFF'S MOTION FOR ENTRY OF JUDGMENT  
AGAINST DEFENDANT JP MORGAN CHASE BANK**

Presently before the Court is the plaintiff's motion for entry of final judgment against defendant JP Morgan Chase Bank. On January 10, 2011, defendant JP Morgan Chase Bank filed a motion to dismiss. The Court granted the defendant's motion on September 12, 2011. The Court denied the plaintiff's later motion for reconsideration on October 20, 2011. The Court did not enter judgment in favor of defendant JP Morgan Chase Bank, however, because claims remained pending against other defendants in the case. *See* Fed. R. Civ. P.54(b).

The plaintiff argues that there is no just reason to delay entry of judgment under Federal Rule of Civil Procedure 54(b), because the claims against defendant JP Morgan Chase Bank are distinct from the remaining claims in the case, the issues to be reviewed in connections with the claims are unlikely to be mooted by further proceedings in this Court, this Court will not be obliged to consider the same issue in the remaining claims, there is no claim or counter-claim that might require a set-off against the judgment, and because it is warranted by judicial economy.

Rule 54(b) states that "[w]hen an action presents more than one claim for relief . . . , the court may direct entry of a final judgment as to one or more, but fewer than all, claims . . . only if the court expressly determines that there is no just reason for delay." Fed. R. Civ. P. 54(b). A final judgment may not be entered on fewer than all claims in a case unless that judgment "entirely resolve[s]" an individual claim, and there is "no just reason for delay." *Lowery v. Fed. Exp. Corp.*, 426 F.3d 817,

821 (6th Cir. 2005). In order to determine whether there is just reason for delay, the Court must consider the following factors:

“(1) the relationship between the adjudicated and unadjudicated claims; (2) the possibility that the need for review might or might not be mooted by future developments in the district court; (3) the possibility that the reviewing court might be obliged to consider the same issue a second time; (4) the presence or absence of a claim or counterclaim which could result in set-off against the judgment sought to be made final; (5) miscellaneous factors such as delay, economic and solvency considerations, shortening the time of trial, frivolity of competing claims, expense and the like.”

*Lowery*, 426 F.3d at 822 (quoting *Gen. Acquisition, Inc. v. GenCorp, Inc.*, 23 F.3d 1022, 1030 (6th Cir. 1994)).

The Court finds that these factors weigh against the entry of final judgment as to defendant JP Morgan Chase Bank. Although it is true that no risk of a setoff of a judgment in favor of that defendant exists, the adjudicated and unadjudicated claims are related and there exists a possibility that the need for review might be mooted by future developments in this Court. The plaintiff's dismissed claims against defendant JP Morgan Chase Bank depend on the existence of a conspiracy to defraud the plaintiff and a finding that the fiduciary funds deposited in accounts held by that defendant were diverted. Those issues have not yet been adjudicated by this Court. Despite the plaintiff's assertion to the contrary, the plaintiff's claims against defendant JP Morgan Chase Bank could be mooted by a finding that no fraud or diversion occurred. Moreover, the likelihood that other defendants would seek an appeal of an adverse judgment is high, which would require the court of appeals to conduct multiple and piecemeal appeals regarding the same core controversy. Those factors weigh heavily in favor of the Court's decision not to enter a final judgment in favor of defendant JP Morgan Chase Bank at this time.

Accordingly, it is **ORDERED** that the plaintiff's motion for judgment as to claims against defendant JP Morgan Chase Bank [dkt. #278] is **DENIED**.

s/David M. Lawson  
DAVID M. LAWSON  
United States District Judge

Dated: December 16, 2011

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on December 16, 2011.

s/Deborah R. Tofil  
DEBORAH R. TOFIL